City of Lafayette
Staff Report
City Council

Meeting Date: April 14, 2025

To: City Council

From: Niroop K. Srivatsa

Subject: **SB 79 (Wiener): Planning and zoning: housing development: transit-oriented development**

SB 79 has been referred to the Senate Housing Committee and Senate Local Government Committee and the first hearing will likely be held during the week of April 21. Given this tight schedule, staff submits the bill for the City Council's consideration without a recommendation from the Council's legislation committee (Cervantes, Candell).

The League of California Cities is opposing this bill. Locally, the cities of Walnut Creek, Orinda and Concord have indicated that they will be submitting letters of opposition. Staff recommends that the City Council authorize Mayor Candell to submit a letter opposing the bill.

Concerns regarding SB 79

SB 79 limits the use of local development standards and allows transit agencies full land-use authority over residential and commercial development on property they own or lease, without any requirement that developers build housing, let alone affordable housing. The bill allows transit agencies to form development guidelines for their properties that could include commercial (non-housing) development. Transit agencies could develop 100% commercial projects — even at transit stops. They would have the power to determine all aspects of the development including height, density, and design, without any regard to local zoning or planning.

SB 79 requires cities to approve higher-density residential projects — up to 7 stories and 120 units/acre — near public transit stops, regardless of local general plans and zoning codes. The bill is similar in concept to AB 2923 - the 2018 BART bill; however, SB 79 extends far beyond BART and captures other transit service providers statewide including Caltrain, Muni, rapid bus transit, and ferry transit. Like AB 2923, this bill would allow for the development of housing/mixed-use which would be eligible for streamlining if certain criteria are met.

There are differing requirements for height, density, and FAR under SB 79, depending upon the type of transit, or the distance that a project is from certain types of transit. Presumably, the Lafayette's BART station would qualify as a Tier 1 transit-oriented development stop, defined in the bill as *"a transit-oriented development stop served by rail transit, as defined in Section 99602 of the Public Utilities Code, including, but not limited to, high-frequency commuter rail and light rail transit that uses fixed guideway facilities immediately adjacent to the transit-oriented development stop, excluding those rail transit services defined as part of Tier 2 or 3."* The following rules would apply to residential development with ¼ mile of a Tier 1 transit-oriented development stop -

- A development may be built up to 75 feet high, or up to the local height limit, whichever is greater.

- A local government shall not impose any maximum density of less than 120 dwelling units per acre. The development proponent may seek further increased density in accordance with applicable density bonus law.
- A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a floor area ratio of up to 3.5.
- A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for three additional concessions pursuant to Section 65915.

Compared with the BART TOD standards in AB 2923, SB 79 would increase the overall height allowed (from 5 story minimum to 75 foot maximum) and the maximum density (from 75 units/acre to 120 units/acre) with the ability to seek further increased density in accordance with applicable density bonus law.

Lastly, while the provisions of AB 2923 would sunset on January 1, 2029, unless otherwise extended by the Legislature, SB 79 does not contain any sunset provisions.

RECOMMENDATION
Authorize the Mayor to send a letter to the Senate Housing Committee and Senate Local Government Committee opposing the bill.

Attachments
Townsend Public Affairs bill analysis
League of California Cities letter opposing the bill

TOWNSEND
PUBLIC AFFAIRS
EST TPA 1998

M E M O R A N D U M

To: **City of Lafayette**

From: **Townsend Public Affairs**
Casey Elliott, Vice President

Date: April 14, 2025

Subject: **Bill Analysis: SB 79 (Wiener)**

The official text of SB 79 can be found here.

Summary

SB 79 establishes state standards for transit oriented zoning around qualifying transit stops. The bill puts forth specific heights and densities, based on the capacity of the neighboring transit service:

- For a residential development within ¼ mile of a Tier 1 transit oriented development stop (TOD Stops served by grade separated rail transit and high frequency commuter rail):
  - A development may be built up to 75 feet, or up to the local height limit, whichever is greater.
  - A local government shall not impose a maximum density of less than 120 dwelling units per acre (may be further increase in accordance to density bonus law)
  - A local government shall not enforce local development standards that would prevent achieving a floor area ratio of up to 3.5.

- For a residential development within ½ mile of a Tier 1 transit oriented development stop (TOD Stops served by grade separated rail transit and high frequency commuter rail):
  - A development may be built up to 65 feet, or up to the local height limit, whichever is greater.
  - A local government shall not impose a maximum density of less than 100 dwelling units per acre (may be further increase in accordance to density bonus law)
  - A local government shall not enforce local development standards that would prevent achieving a floor area ratio of up to 3.0.

- For a residential development within ¼ mile of a Tier 2 transit oriented development stop (TOD stops served by specified light rail transit or rapid bus transit)
  - A development may be built up to 65 feet, or up to the local height limit, whichever is greater.
  - A local government shall not impose a maximum density of less than 100 dwelling units per acre (may be further increase in accordance to density bonus law)

    - A local government shall not enforce local development standards that would prevent achieving a floor area ratio of up to 3.0.

- For a residential development within ½ mile of a Tier 2 transit oriented development stop (TOD stops served by specified light rail transit or rapid bus transit)
    - A development may be built up to 55 feet, or up to the local height limit, whichever is greater.
    - A local government shall not impose a maximum density of less than 80 dwelling units per acre (may be further increase in accordance to density bonus law)
    - A local government shall not enforce local development standards that would prevent achieving a floor area ratio of up to 2.5.

- For a residential development within ¼ mile of a Tier 3 transit oriented development stop (TOD Stops served by moderate frequency commuter rail service or ferry service.)
    - A development may be built up to 55 feet, or up to the local height limit, whichever is greater.
    - A local government shall not impose a maximum density of less than 80 dwelling units per acre (may be further increase in accordance to density bonus law)
    - A local government shall not enforce local development standards that would prevent achieving a floor area ratio of up to 2.5.

- For a residential development within ½ mile of a Tier 3 transit oriented development stop (TOD Stops served by moderate frequency commuter rail service or ferry service.)
    - A development may be built up to 45 feet, or up to the local height limit, whichever is greater.
    - A local government shall not impose a maximum density of less than 60 dwelling units per acre (may be further increase in accordance to density bonus law)
    - A local government shall not enforce local development standards that would prevent achieving a floor area ratio of up to 2.0.

- SB 79 does not apply around low frequency bus stops.

Under the provisions of SB 79, transit oriented housing developments that meet certain environmental, labor, and affordability standards would be eligible for the streamlined ministerial approval process previously established by the state (most recently amended by SB 423 (Wiener), 2023).

SB 79 also sets forth that a transit agency may adopt objective standards for both residential and commercial developments proposed to be constructed on land owned by the transit agency, or which they have a permanent operating agreement, as long as the objective standards allow for the same or greater development density allowed by local standards or state law.

Status

SB 79 has been referred to the Senate Housing Committee and the Senate Local Government Committee, and is currently awaiting a hearing date.

Author's Statement

Senate Bill 79 allows more housing to be built near major public transportation stops by establishing state standards for transit oriented zoning around major transit stops especially train stations. Specifically, SB 79 zones for multifamily residential uses near major transit stops on any site zoned for residential, mixed use, commercial, or light industrial development, up to a specified height, density, and floor area ratio. These standards will ensure that transit oriented developments (TODs) are feasible and enhance access to transit. The bill also authorizes transit agencies to develop at the same or greater density on land they own or have a permanent operating easement on.

TODs under SB 79 are eligible for the streamlined ministerial approvals process under Senate Bill 423 (Wiener, 2023) if they meet that standards. SB 79 does not apply around low frequency bus stops.

Support

SB 79 is co-sponsored by California YIMBY, SPUR, Streets for All, Bay Area Council, and the Greenbelt Alliance. The author indicates additional support from Abundant Housing LA, Active San Gabriel Valley, California Community Builders, Circulate San Diego, East Bay for Everyone, House Sacramento, Housing Action Coalition, and Student Homes Coalition.

Opposition

While an official list of opposition has not yet posted, opponents include, but may not be limited to: League of California Cities, and the cities of Fullerton, Mission Viejo, and Newport Beach.

In their opposition, CalCities notes:

SB 79 doubles down on the recent trend of the state overriding its own mandated local housing elements. This latest overreaching effort forces cities to approve transit-oriented development projects near specified transit stops — up to seven stories high and a density of 120 homes per acre — without regard to the community's needs, environmental review, or public input.

Most alarmingly, SB 79 defies cities' general plans and provides transit agencies unlimited land use authority on property they own or have a permanent easement, regardless of the distance from a transit stop. Transit agencies would have the power to determine all aspects of the development including height, density, and design, without any regard to local zoning or planning.

This broad new authority applies to both residential and commercial development. Transit agencies could develop 100% commercial projects — even at transit stops — and not provide a single new home, while simultaneously making the argument that more housing must be constructed around transit stops.

Recommendation

Oppose

March 26, 2025

The Honorable Scott Wiener
Senator, California State Senate
1021 O St, Suite 8620
Sacramento, CA 95814

RE: **SB 79 (Wiener) Transit-oriented Development**
Notice of Opposition

Dear Senator Scott Wiener,

The League of California Cities writes to express our strong opposition to your SB 79 (Wiener), which would disregard state-certified housing elements and bestow land use authority to transit agencies without any requirement that developers build housing, let alone affordable housing.

SB 79 doubles down on the recent trend of the state overriding its own mandated local housing elements. This latest overreaching effort forces cities to approve transit-oriented development projects near specified transit stops — up to seven stories high and a density of 120 homes per acre — without regard to the community's needs, environmental review, or public input.

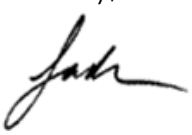
Most alarmingly, SB 79 defies cities' general plans and provides transit agencies unlimited land use authority on property they own or have a permanent easement, regardless of the distance from a transit stop. Transit agencies would have the power to determine all aspects of the development including height, density, and design, without any regard to local zoning or planning.

This broad new authority applies to both residential and commercial development. Transit agencies could develop 100% commercial projects — even at transit stops — and not provide a single new home, while simultaneously making the argument that more housing must be constructed around transit stops.

Cal Cities appreciates and respects your desire to pursue a housing production proposal. However, as currently drafted, SB 79 will not spur much-needed housing construction in a manner that supports local flexibility, decision-making, and community input. State-driven ministerial or by-right housing approval processes fail to recognize the extensive public engagement associated with developing and adopting zoning ordinances and housing elements.

California will never produce the number of homes needed with an increasingly state-driven, by-right housing approval process. What we really need is a sustainable state investment that matches the scale of this decades-in-the-making crisis. For these reasons, Cal Cities opposes SB 79. Please do not hesitate to contact me to discuss this in greater detail at (916) 658-8264.

Sincerely,



Jason Rhine, Senior Director, Legislative Affairs